

ASSEMBLY BILL

No. 1362

Introduced by Assembly Member Gordon
(Principal coauthor: Senator Wolk)

February 27, 2015

An act to amend Section 53750 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1362, as introduced, Gordon. Local government: assessments, fees, and charges: stormwater definition.

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act (hereafter the Act), prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution and defines various terms for these purposes.

This bill would define “stormwater” for purposes of the act to mean any system of public improvements or service intended to provide for the quality, conservation, control, or conveyance of waters that land on or drain across the natural or man-made landscape.

This bill would become operative only if ACA ____ of the 2015–16 Regular Session is approved by the voters.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 53750 of the Government Code is amended to read:

53750. For purposes of Article XIII C and Article XIII D of the California Constitution and this article:

(a) “Agency” means any local government as defined in subdivision (b) of Section 1 of Article XIII C of the California Constitution.

(b) “Assessment” means any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or service, that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement, or the cost of the service being provided. “Assessment” includes, but is not limited to, “special assessment,” “benefit assessment,” “maintenance assessment,” and “special assessment tax.”

(c) “District” means an area that is determined by an agency to contain all of the parcels that will receive a special benefit from a proposed public improvement or service.

(d) “Drainage system” means any system of public improvements that is intended to provide for erosion control, for landslide abatement, or for other types of water drainage.

(e) “Extended,” when applied to an existing tax or fee or charge, means a decision by an agency to extend the stated effective period for the tax or fee or charge, including, but not limited to, amendment or removal of a sunset provision or expiration date.

(f) “Flood control” means any system of public improvements that is intended to protect property from overflow by water.

(g) “Identified parcel” means a parcel of real property that an agency has identified as having a special benefit conferred upon it and upon which a proposed assessment is to be imposed, or a parcel of real property upon which a proposed property-related fee or charge is proposed to be imposed.

(h) (1) “Increased,” when applied to a tax, assessment, or property-related fee or charge, means a decision by an agency that does either of the following:

(A) Increases any applicable rate used to calculate the tax, assessment, fee, or charge.

1 (B) Revises the methodology by which the tax, assessment, fee,
2 or charge is calculated, if that revision results in an increased
3 amount being levied on any person or parcel.

4 (2) A tax, fee, or charge is not deemed to be “increased” by an
5 agency action that does either or both of the following:

6 (A) Adjusts the amount of a tax, fee, or charge in accordance
7 with a schedule of adjustments, including a clearly defined formula
8 for inflation adjustment that was adopted by the agency prior to
9 November 6, 1996.

10 (B) Implements or collects a previously approved tax, fee, or
11 charge, so long as the rate is not increased beyond the level
12 previously approved by the agency, and the methodology
13 previously approved by the agency is not revised so as to result in
14 an increase in the amount being levied on any person or parcel.

15 (3) A tax, assessment, fee, or charge is not deemed to be
16 “increased” in the case in which the actual payments from a person
17 or property are higher than would have resulted when the agency
18 approved the tax, assessment, fee, or charge, if those higher
19 payments are attributable to events other than an increased rate or
20 revised methodology, such as a change in the density, intensity,
21 or nature of the use of land.

22 (i) “Notice by mail” means any notice required by Article XIII C
23 or XIII D of the California Constitution that is accomplished
24 through a mailing, postage prepaid, deposited in the United States
25 Postal Service and is deemed given when so deposited. Notice by
26 mail may be included in any other mailing to the record owner
27 that otherwise complies with Article XIII C or XIII D of the
28 California Constitution and this article, including, but not limited
29 to, the mailing of a bill for the collection of an assessment or a
30 property-related fee or charge.

31 (j) “Record owner” means the owner of a parcel whose name
32 and address appears on the last equalized secured property tax
33 assessment roll, or in the case of any public entity, the State of
34 California, or the United States, means the representative of that
35 public entity at the address of that entity known to the agency.

36 (k) “Registered professional engineer” means an engineer
37 registered pursuant to the Professional Engineers Act (Chapter 7
38 (commencing with Section 6700) of Division 3 of the Business
39 and Professions Code).

1 *(l) “Stormwater” means any system of public improvements or*
2 *service intended to provide for the quality, conservation, control,*
3 *or conveyance of waters that land on or drain across the natural*
4 *or man-made landscape.*

5 ~~(t)~~

6 *(m) “Vector control” means any system of public improvements*
7 *or services that is intended to provide for the surveillance,*
8 *prevention, abatement, and control of vectors as defined in*
9 *subdivision (k) of Section 2002 of the Health and Safety Code and*
10 *a pest as defined in Section 5006 of the Food and Agricultural*
11 *Code.*

12 ~~(m)~~

13 *(n) “Water” means any system of public improvements intended*
14 *to provide for the production, storage, supply, treatment, or*
15 *distribution of water from any source.*

16 SEC. 2. This act shall become operative only if Assembly
17 Constitutional Amendment ____ of the 2015–16 Regular Session
18 is approved by the voters and takes effect.